

November 26, 2002

PUBLIC UTILITIES COMMISSION
Investigation of Skowhegan OnLine
Inc. proposal for UNE loops

NOTICE OF INVESTIGATION

Welch, Chairman; Nugent and Diamond, Commissioners

I. SUMMARY

We initiate an investigation into Skowhegan OnLine Inc.'s (SOL) proposed use of UNE loops to extend broadband availability in rural areas of Maine.

II. BACKGROUND

In Docket No. 2002-353, the Commission's Rapid Response Process Team (RRPT) issued a decision on a complaint filed by SOL in which SOL claimed that Verizon was improperly rejecting its unbundled network element (UNE) loop orders. The RRPT complaint arose after SOL began exploring the possibility of ordering UNE loops from Verizon that would be terminated at a pole-mounted network interface device (NID) or a SOL-owned remote terminal (RT) box. SOL made the requests for the purpose of allowing it to extend its DSL service to customers who are too far from Verizon's Skowhegan switch to be served by traditional DSL methods.

Termination of UNE loops at poles or remote terminal boxes would allow SOL to transport its service closer to the end user customer. From the pole or RT box, SOL would overbuild short sections of distribution facilities and thus reach customers who would otherwise be reachable with DSL only by a complete overbuild of the cable facility all the way from the SOL collocation site in Verizon's Central Office. Verizon rejected SOL's requests. Verizon stated that it could not accommodate SOL's request because unbundled loops must terminate at a customer's premise and that SOL's pole or pad for placement of a NID does not qualify as a customer premise.

The RRPT looked first at the terms of the interconnection agreement between the two parties and found that a loop must terminate at a customer's premise. Specifically, under SOL's interconnection agreement the term "customer" is a defined term and refers to a third party residence or business end user of telecommunications service (either Verizon's or SOL's service). Further, the term "premises" generally is considered to mean a dwelling unit, other building, or a legal unit of real property such as a lot on which the customer's dwelling unit is located. Thus, the RRPT found that, per the SOL interconnection agreement, a UNE loop must terminate at a NID on a third-

party customer's premise, not SOL's network, and that the NID must be on or reasonably close to the physical location of the customer.

The RRPT also looked generally at Verizon's unbundling requirements under the Telecommunications Act of 1996 and found that the type of loop SOL was attempting to order was a piece of Verizon's network that has not yet been defined as a UNE and that Verizon was not required to provision it. The RRPT made no finding regarding the technical feasibility and/or legality of a Commission decision to require Verizon to provide the service requested by SOL but did state that SOL's idea held the possibility of advancing the public policy goal of extending broadband capabilities to more of Maine's citizens by eliminating distance barriers that currently exist. Specifically, on page 3 of the decision, the RRPT states that:

[I]t appears that public policy goals, namely continued and wider deployment of broadband, warrant additional investigation into this matter. SOL's proposal holds the possibility of extending broadband capabilities to more citizens by overcoming the distance limitations that currently exist for DSL service. This is critically important, especially if SOL's allegations that Verizon's loop plant has been mis-designed and limits the availability of DSL to rural customers are true. Thus, the RRPT will recommend that Commission open an investigation into SOL's proposal.

III. DECISION

We agree with the RRPT that SOL's proposal deserves a closer examination for the reasons described above. Therefore, we open an investigation into the issues raised by SOL's original RRPT complaint, namely whether it is technically feasible, legally permissible, and in the public interest for this Commission to order Verizon to offer UNE loops that would be terminated at a pole-mounted NID or CLEC-owned RT box. We request that:

1. Any party that wishes to participate file a notice of intervention by **December 9, 2002**, which includes name, address, phone, fax, and e-mail address.

2. SOL and any other party in support of SOL's request submit prefiled testimony by **December 30, 2002**. SOL's December 30, 2002 filing should address, among other issues, how its proposed network could be used to provide broadband services. The testimony should address, but not be limited to, the following technical concerns:

a. In the event that SOL's network interconnects its remote terminal through a Verizon remote terminal that is served by an older form of digital line carrier, such as Subscriber Line Carrier (SLC) 96 or SLC Series 5 on fiber, can the SLC be used to transport high-speed data? If so, please explain how this is possible and include supporting documentation from Lucent. If not, please explain how it will be possible to provide data service through the point of interconnection. For example, will

SOL need to collocate a DSLAM at the remote terminal? Can the SLC carry packet switch data?

b. In the event that SOL's network interconnects its remote terminal through a Verizon remote terminal that has copper running back to the Verizon central office and the copper feeder includes load coils, how can the copper feeder be used to provide broadband service? Would SOL have to pay a fee to have the line deloaded? If so, what rate element would be applicable for deloading?

c. In the event that SOL's network interconnects its remote terminal through a Verizon remote terminal that has copper running back to the Verizon central office and the combined copper run (Verizon's feeder + SOL's distribution facilities) is greater than 18 kilofeet and there are no load coils on the loop, can broadband service be provided on loops that exceed 18 kilofeet? If so, please explain how.

d. Should we approve a new UNE, what, if anything, would Verizon have to do differently in its network deployment than what they do today?

3. Verizon will submit rebuttal testimony by **January 13, 2003**. Following the testimony a technical conference will be scheduled if necessary.

Dated at Augusta, Maine, this 26th day of November, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.